

EXHIBIT K

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Attorneys for Plaintiff/Counter-Defendant
GOOGLE INC.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

-----)
GOOGLE INC., a Delaware corporation,)
)
Plaintiff/Counter-Defendant,) CV-05-1779 (TCP) (ETB)
)
v.)
)
RICHARD WOLFE d/b/a FROOGLES.COM,)
an individual,)
)
Defendant/Counterclaimant.)

**PLAINTIFF'S RESPONSE TO DEFENDANT'S/COUNTERCLAIMANT'S
SECOND REQUEST FOR ADMISSIONS**

In accordance with the provisions of Rule 36 of the Federal Rules of Civil Procedure, Plaintiff/Counter-Defendant, Google Inc. ("Plaintiff" or "Google") through its attorneys, Perkins Coie LLP, hereby serves its objections and responses to the Second Request for Admissions

served by Defendant/Counterclaimant, Richard Wolfe, d/b/a Froogles.com (“Defendant” or “Wolfe”).

GENERAL OBJECTIONS

1. Google objects to Wolfe’s Second Set of Requests for Admission to the extent that they purport to impose any requirement or discovery obligation on Google other than those set forth in the applicable local rules and/or the Federal Rules of Civil Procedure.
2. Google objects to Wolfe’s Second Set of Requests for Admission to the extent that they seek information that is protected by the attorney-client privilege, the attorney work-product doctrine, and/or any other applicable privilege. Such information will not be disclosed. Any inadvertent disclosure of such information shall not be deemed a waiver of the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege or immunity.
3. Google objects to Wolfe’s Second Set of Requests for Admission to the extent that they seek information that is not relevant to the subject matter of this action or are otherwise not reasonably calculated to lead to the discovery of admissible evidence.
4. Google’s responses are made without prejudice to its using or relying at trial on subsequently discovered information or on information omitted from these responses as a result of good faith oversight, error or mistake.
5. Google’s responses to these requests for admission shall not be deemed to constitute an admission that any request is relevant, nor is any response by Google Inc. a waiver of any right to object to the admissibility of any such request for admission or response at any proceeding herein.
6. Nothing contained herein may be construed as an admission regarding the existence or nonexistence of any document, and no response is an admission regarding the relevance or admissibility in evidence of any statement or characterization contained in any document, or contained in the request for admission.

RESPONSES TO REQUESTS FOR ADMISSION

Google Inc. incorporates all of its general objections set forth above into each of its individual responses as if fully set forth therein.

REQUEST FOR ADMISSION NO. 46:

Google adopted the mark GOOGLE for use in the United States and used the mark in the United States prior to conducting a trademark search report for said mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 46:

Google objects to this request as compound. Subject to that objection and without waiver thereof, admitted.

REQUEST FOR ADMISSION NO. 47:

Google did not conduct a trademark search prior to its alleged first dates of use of its mark GOOGLE.

RESPONSE TO REQUEST FOR ADMISSION NO. 47:

Admitted.

REQUEST FOR ADMISSION NO. 48:

Google did not conduct a trademark search prior to filing its trademark application with the United States Patent and Trademark Office for the mark GOOGLE as shown in U.S. Reg. No. 2,806,075.

RESPONSE TO REQUEST FOR ADMISSION NO. 48:

Denied.

REQUEST FOR ADMISSION NO. 49:

Google was aware of third party's use of the mark GOOGLES before adopting the mark GOOGLE.

RESPONSE TO REQUEST FOR ADMISSION NO. 49:

Google objects to this request on the grounds that it is neither relevant to the subject matter of this litigation nor likely to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 50:

Google was aware of a third party's use of the mark GOOGLES before filing a United States trademark application with the United States Patent and Trademark Office for the mark Google.

RESPONSE TO REQUEST FOR ADMISSION NO. 50:

Google objects to this request on the grounds that it is neither relevant to the subject matter of this litigation nor likely to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 51:

Google's mark GOOGLE is in direct competition with the mark GOOGLES.

RESPONSE TO REQUEST FOR ADMISSION NO. 51:

Google objects to this request on the grounds that it is vague, unintelligible, and neither relevant to the subject matter of this litigation nor likely to lead to the discovery of admissible evidence.

DATED: August 7, 2006.

PERKINS COIE LLP
By 
MICHAEL H. RUBIN

Attorneys for GOOGLE INC.

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Defendant/Counterclaimant.)
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CERTIFICATE OF SERVICE

I, Erika R. Eberline, declare:

I am a citizen of the United States and am employed in the County of San Francisco,
State of California. I am over the age of 18 years and am not a party to the within action. My

business address is Perkins Coie LLP, Four Embarcadero Center, Suite 2400, San Francisco, CA 94111-4131. I am personally familiar with the business practice of Perkins Coie LLP.

I hereby certify that a copy of the foregoing documents: **Plaintiff's Response to Defendant's/Counterclaimant's Third Request for Production of Documents and Things;** **Plaintiff's Response to Defendant's/Counterclaimant's Second Request for Admissions** and **Plaintiff's Response to Defendant's/Counterclaimant's Third Set of Interrogatories** were served on August 7, 2006, as indicated on the following:

Via U.S. Mail

Richard S. Mandaro
Amster, Rothstein & Bernstein
90 Park Avenue
New York, NY 10016

Attorneys for Plaintiff Google, Inc.

Via U.S. Mail

Robert L. Powley, Esq.
Law Offices of Robert L. Powley, P.C.
417 Canal Street, 4th Floor
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Attorney for Defendant Richard Wolfe

I declare under penalty of perjury under the laws of the United States that the above is true and correct, that I am employed in the offices of a member of the bar of this court at whose direction the service was made, and that this declaration was executed at San Francisco, California.

DATED: August 7, 2006


Erika R. Eberline